

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6633

BILL NUMBER: HB 2008

DATE PREPARED: Dec 9, 1998

BILL AMENDED:

SUBJECT: Gambling moratorium.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that until January 1, 2004: (1) a form of gambling that is not lawful under an Indiana statute in effect on January 1, 1999, may not become lawful under an Indiana statute; (2) a statute in effect in Indiana on January 1, 1999, that allows a form of gambling may not be amended to expand the scope of gambling allowed by the statute; (3) a tribal-state compact to allow tribal gaming may not be made between the state and an Indian tribe; (4) a meeting permit to conduct pari-mutuel wagering that has not been issued by January 1, 1999, may not be issued; (5) a satellite facility license that has not been issued by January 1, 1999, may not be issued; and (6) the maximum number of riverboat licenses authorized on January 1, 1999, may not be increased.

Effective Date: January 1, 1999 (retroactive).

Explanation of State Expenditures:

Explanation of State Revenues: This bill provides that a compact between the state and an Indian tribe to allow tribal gambling may not be made before January 1, 2004. The Indian Gaming Regulatory Act (IGRA) allows Indian tribes to conduct any type of class III gaming (which includes parimutuel wagering, slot machines, and video poker) in a state that allows such gaming as long as it conforms to the compact negotiated by the state and the Indian tribe. It is not known whether this language will prevent an Indian tribe from operating a casino in the state between 1999 and 2004.

The IGRA provides that an Indian tribe may sue a state for failing to negotiate or failing to negotiate in good faith. However, the United States Supreme Court ruled in the case of *Seminole Tribe of Florida v. Florida* that the United States Congress does not have the power to subject states to lawsuits by Indian tribes for failing to negotiate a compact. Therefore, the provision of the IGRA that allows tribes to sue states is unenforceable.

The Eleventh Circuit Court of Appeals, in its decision in *Seminole Tribe of Florida v. Florida*, asserted that Indian tribes may negotiate with the U.S. Secretary of the Interior for a resolution if negotiations with a state fails. The U.S. Supreme Court did not comment on this assertion. The IGRA does not contain language that authorizes the Secretary of the Interior to negotiate a compact without participation by a state. Therefore, it is not known if a tribe will be able to negotiate a compact with the Secretary of the Interior if the State of Indiana refuses.

In addition, Indian tribes in California, Florida, and Texas operate casinos even though a tribal-state compact has not been negotiated. The states have been unable to shut down the casinos because the land is under federal government jurisdiction.

This bill also prohibits the Horse Racing Commission from issuing another horse track permit or satellite facility license before January 1, 2004. This may postpone the issuance of a second track permit and the four satellite facility licenses authorized for that permit until at least the year 2004. To date, no applications for a second permit have been filed. There have been discussions regarding a second track in Lawrence Township in Marion County. This may also postpone the issuance of the fourth satellite facility license authorized for Hoosier Park. Hoosier Park has not yet applied for that license. It is not known when or if an application will be filed.

This could impact fee revenue from the initial permit application (\$25,000), the annual track permit (\$5,000), and the annual satellite license (\$1,000). Fee revenue is deposited in the state General Fund. It could also impact revenue from the pari-mutuel admission, wagering, and satellite facility tax. The admission tax is \$0.20 on every paid admission to a track or satellite facility and is distributed in equal shares to the state General Fund and the city or town and county in which the track is located.

A 2% pari-mutuel wagering tax is levied on the total amount wagered on live races and simulcasts at a track. A 2.5% wagering tax is levied on the total amount wagered on simulcasts at satellite facilities. The first \$150,000 of wagering tax revenue is deposited in the Veterinary School Research Account within the state General Fund and the remainder is deposited in the Lottery and Gaming Surplus Account (LGSA) within the Build Indiana Fund. A 0.5% satellite facility tax is levied on the total amount wagered at a satellite facility and is distributed in equal shares to the Livestock Industry Promotion and Development Fund and the State Fair Commission.

Explanation of Local Expenditures:

Explanation of Local Revenues: See State Revenues.

State Agencies Affected: Horse Racing Commission; State Fair Commission; Commissioner of Agriculture; Purdue University.

Local Agencies Affected: Local units of government where a horse track or satellite facility could be located.

Information Sources: 25 U.S.C. 2701 et seq. (Indian Gaming Regulatory Act); *Seminole Tribe of Florida v. Florida* et al, 116 S. Ct. 1114 (1996); Ellen Perlman, "A Game of Defiance," *Governing*, November 1998, pages 50-54.